

# ARTER & HADDEN

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May 2, 1996

RECEIVED

MAY 2 1996

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N. W., Room 222  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Re: Ex Parte Filing,  
IB Docket 95-91

Dear Mr. Caton:

On April 30, 1996, representatives of Primosphere Limited Partnership met with several members of the International Bureau and with David Siddall of Commissioner Ness's office.

The attached documents summarize the points Primosphere's representatives made at those meetings.

Very truly yours,

  
Howard M. Liberman

cc (with encl.):  
Mr. Roderick K. Porter  
Mr. Thomas S. Tycz  
Ms. Rosalee Chiara  
Mr. Ron Repasi  
Mr. Donald Gips  
Mr. David Siddall

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**PRIMOSPHERE LIMITED PARTNERSHIP**

**Summary of Recent Ex Parte Presentations**

1. DARS and the Public Interest
2. Primosphere's Positions on Selected DARS Issues
3. Canadian Coordination Chart

April 29, 1996

**PRIMOSPHERE:  
DARS and the Public Interest**

- Primosphere proposes to utilize 12.5 MHz of the DARS spectrum and provide 20-24 channels of music quality and 4-6 channels of voice quality services. Primosphere proposes a non-subscription, advertiser-supported service.
- Primosphere will devote two of its channels (one music, one voice) to public radio, at no cost. Thus, Primosphere will provide for the creation of two non-subscription, national channels of distribution for public radio.
- Primosphere will provide an "override" service for all of its channels for critical information such as weather emergencies. For example, Primosphere would announce simultaneously over all of its channels that "there are tornado conditions in Arkansas -- if you are in or near Arkansas, tune to a local radio station for information." For extreme emergencies (for example, many of the local radio stations off the air) Primosphere would devote one of its channels exclusively to the emergency and make periodic announcements on all its other channels that information about and for the emergency area is available on a specified DARS channel.
- Primosphere agrees to comply with all public service requirements applicable to terrestrial radio broadcasters.
- Primosphere's regular programming channels (as described in Primosphere's December 1992 application) include "channels devoted to musical styles reflecting the richness of American heritage, such as Classic Soul, Classic Country, Roots Rock, Classic Jazz and Folk, Blues and Bluegrass." Primosphere also will have an international channel, which will include Caribbean, African and Asian music; a children's channel; and an audio reading service for the visually-impaired.

**PRIMOSPHERE**  
**LIMITED PARTNERSHIP**

- No ancillary services. The entire 12.5 MHz is needed to provide an adequate service that is differentiated from terrestrial radio services. (Only ancillary services directly related to the DARS programming should be allowed, such as names of songs and artists, which use low data rates and therefore will have minimal impact on use of the spectrum.)
- No terrestrial repeaters. Broadcasters fear that this service is a Trojan horse for a terrestrial based service. We are broadcasters and we agree with this concern. DARS is not intended to be a terrestrial service.
- Subscription v. Non-subscription.

To promote the public interest, at least one satellite digital audio radio service system should be permitted to operate on a non-subscription basis. This is the only way to control prices of the one or two competing subscription services.

Non-subscription basis allows dissemination of diverse and niche programming services throughout the United States, some of which are geared to economic groups which cannot afford to subscribe -- for example, a children's channel.

Non-subscription service permits Primosphere's public broadcasting channels to be received by maximum audience.

Non-subscription basis enhances use of SDARS for emergency information.

- If any applicant receives a pioneer's preference for a 12.5 MHz band-segment, and one or more other 12.5 MHz band-segments are awarded, the band-segment assignments should be determined by lot.

**PRIMOSPHERE'S  
Analysis of Canadian Coordination Issue**

Number of Sites Requiring Coordination

<u>DARS Bandwidth, Shown in 12.5 MHZ Quarters</u>	<u>Fixed Service</u>		<u>Aeronautical Telemetry Service*</u>
	<u>Based on Canada's Analysis</u>	<u>Based on Normal ITU Standards</u>	
2310-2322.5 MHZ	190	45	0
2322.5-2335 MHZ	36	13	8
2335-2347.5 MHZ	2	2	3
2347.5-2360 MHZ	3	1	8

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\*The total allocated bandwidth for this Aeronautical Service in Canada is 2300-2483 MHZ. Thus, one solution is to move all the Canadian Aeronautical stations which currently operate in the U.S. DARS band (2310-2360 MHZ) to 2300-2310 or 2360-2483.

From Radio & Records, April 26, 1996

### **Irving To Broadcasters: DARS Is A Given**

National Administrator Larry Irving blasted obstructionist broadcasters in a roundtable conference with journalists this week (4/22), saying point-to-point digital radio (DARS) is a certainty. This despite the fact that spectrum negotiations with the Canadians threaten to delay the service.

"Analog broadcasters keep talking about being local, saying, 'Please don't put a national radio service over us,'" he said. "They act like it's a Death Star ready to rain down." Irving said the size and scope of large radio groups and the \$5 billion in consolidation deals during 1996's first quarter have hurt the broadcasters' stance. "They lose the 'we are local' argument. It doesn't pass the laugh meter."

Yet there may be delays because the Canadian government says the U.S. S-band digital satellites might interfere with Canada's military aircraft telemetry on that same band. But Irving expressed doubt that the S-band spectrum overlap would stop DARS. "This is the kind of thing we negotiate all of the time."

The FCC is expected to unveil its rules for the proposed service on May 9.